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C O N F I D E N T I A L STATE 168395

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E.O. 12958: DECL: 12/13/2017

TAGS: [PGOV](#) [PREL](#) [VI](#) [UNSC](#) [UNMIK](#)

SUBJECT: INSTRUCTIONS FOR UNSC SESSION ON KOSOVO, DECEMBER 19

Classified By: IO PDAS James B. Warlick for reasons 1.4(B) and (D).

¶1. (C) USUN may draw on the points in paragraph 2 for use during the UN Security Council session on Kosovo on December 19, 2007. Our Quint partners (UK, Germany, Italy, France) have agreed to a low-key approach. We seek to avoid a contentious meeting, which could make it more difficult for UN Secretary General Ban Ki-moon to cooperate with us in the future. U.S. interventions should state our general talking points: negotiations have exhausted their potential, the status quo is unsustainable, we need to move forward to implement the Ahtisaari Plan. Serbian PM Kostunica may propose a UNSC referral of the Kosovo issue to the International Court of Justice (ICJ); we provide contingency points for a response below (paras 3 and 4).

¶2. (SBU) Begin Points.

-- Over two years ago, the Council supported the launch of the process to solve the last major issue related to Yugoslavia's collapse: the status of Kosovo. The Council blessed the appointment of UN Special Envoy Martti Ahtisaari who undertook over fifteen months of intensive negotiations between Belgrade and Pristina.

-- The submission of the report of the U.S./EU/Russia Troika brings us to a critical moment in the resolution of Kosovo's future status.

-- President Ahtisaari accomplished exactly what the Security Council requested of him. He prepared a comprehensive proposal for the way forward and that proposal enjoyed broad international support, including from the EU, NATO, the UN Secretary-General, and an overwhelming majority of UN Security Council members.

-- President Ahtisaari, an experienced international statesman who has mediated many conflicts in the service of the United Nations, told us then that "the negotiations' potential to produce any mutually agreeable outcome on Kosovo's status is exhausted." Nevertheless, the Security Council was unable to act on his recommendations. We were disappointed, as prompt Security Council action would have provided the best basis for moving forward.

-- As a result of the deadlocked discussions in the Council, we agreed to one more period of negotiations

between the parties. The United States supported this effort and assigned Ambassador Frank Wisner, one of our most experienced diplomats, to the endeavor.

-- We are grateful to the Troika for its hard work and intense schedule of meetings. This trio of outstanding negotiators explored every conceivable avenue for potential compromise. Yet by the time their mandate concluded, the parties were still deadlocked.

-- After two years of negotiations, the parties are now no closer on the question of Kosovo's final status. The Troika process did not fail due to a lack of time. Given the differing views, there is no indication that after another 120 days -- or any other period of time -- the parties would find a middle ground between their respective positions.

-- We respect the position of Russia and wish we could have come to an agreement, but we have not. We need statesmanship to move forward on our common goal of a stable and secure future for Europe.

-- So now the international community is faced with difficult decisions about the way forward. New talks would only freeze the conflict, condemning the people of Kosovo to continued uncertainty. Some conflicts that the Security Council reviews have festered for decades, destabilizing entire regions for generations. This is not the future we seek for Kosovo. UNMIK was supposed to end last year. It has lasted eight years and done all it can do.

-- Fortunately, the Ahtisaari Proposals give us a roadmap for moving ahead. Implementation will enhance regional stability, lock in democratic reforms, and accelerate the integration of all the countries of southeast Europe into Euro-Atlantic institutions.

-- The Ahtisaari proposals will also enhance and protect the rights, security, and culture of Kosovo's non-Albanian communities. The proposal includes international presences to monitor and, if necessary, take action to ensure that Kosovo's government is living up to its obligations.

-- European leaders have said they are ready to accept their responsibilities and bring this process to completion. The United States is also prepared to move forward.

-- As we do so, however, we must work together to ensure stability on the ground in Kosovo. In particular, we must remind both Belgrade and Pristina of the commitment they made to the Troika not to use violence, make threats, or engage in provocations. We must remind Kosovo's leaders that they must do everything within their power to ensure that non-Albanian communities feel safe and secure in Kosovo.

-- Serbia's leaders also have responsibilities to keep the peace in Kosovo. We have seen disturbing developments recently that seem contrary to the pledges made to the Troika. Belgrade has opened a branch office of its government Ministry for Kosovo in north Mitrovica. This provocation is contrary to the pledges Belgrade made to the Troika to avoid inflammatory acts. As UNMIK has pointed out, such a unilateral act, uncoordinated with UNMIK, is in violation of Security Council resolution 1244 and is illegal. This office should be closed and no others should be opened.

-- A lack of resolution to Kosovo's status is preventing the full integration of the Balkans into Europe. We would like to see Serbia take its rightful place among European countries and in Euro-Atlantic institutions.

-- To achieve this integration, it is essential to solve

the problem of Kosovo's status, which is hampering both Serbia and Kosovo's advancement.

-- It is time to move forward to a brighter future where Serbia and Kosovo can be partners and neighbors, fully integrated into Europe.

-- The Council has played an important role in Kosovo, especially in setting up the framework for its post-war interim administration. The status process is at an end. We have to move on to the next step.

End points.

¶3. (C) Serbian President Tadic has said he may request a Security Council referral of this matter to the International Court of Justice (ICJ). We do not want to be in the lead responding to this request, as the discussion could quickly devolve into a discussion of U.S. views of the ICJ and international law. Only if pressed, USUN may deploy the general points in para 4 below.

¶4. (SBU) Begin If raised/if necessary points.

-- Although the Ahtisaari recommendations have been on the table eight months, Belgrade has only now raised this issue. Their eleventh hour timing suggests this is a diversionary tactic designed to distract the Council and stall the process. Nor does the proposal make sense on the merits.

-- The issues we face here are not different in character from the kinds of issues the Council routinely encounters in the course of its work. It is not the Council's practice to refer matters to the ICJ merely because some party claims that an issue on the Council's agenda has legal aspects. To do so would be to abdicate the Council's responsibilities under the Charter to address matters of international peace and security.

-- Any opinion from the ICJ would necessarily be limited to legal questions and cannot resolve the broader political dispute that is the source of the debate within the Council.

-- The status quo in Kosovo is unsustainable and threatens to spark new regional instability. We must swiftly act on the one proposal on the table: the Plan of the UN Special Envoy Martti Ahtisaari.

End Points.
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